unhealthful conditions as to imperil the lives of those confined therein, any ordinance providing for jail sentences is void for lack of uniformity. *Held,* "If a joint keeper in any city thinks the jail there worse than in other cities, the law will permit him to move his business to wherever he can find a jail that is satisfactory." The ordinance is not void. *City of Wichita* v. *Murphy* (1908), — Kan. —, 99 Pac. 272.

In the supreme court the fact that the city ordinance had been repealed was advanced as a plea in bar to the action. As the repeal was not made until after judgment below, such repeal under the Kan. Gen. St., p. 998, § 1, is not a good plea in bar. *State* v. *Boyle,* 10 Kan. 113; *State* v. *Crawford,* 11 Kan. 32. The purpose of the state statute concerning the offense of selling liquors without a license, upon which the above ordinance was based, was to secure uniformity, leaving nothing to the discretion of the local governing bodies. *In re Van Tuyl,* 71 Kan. 659. A municipal corporation has no right to enforce obedience to the ordinances which it has the power to pass, by fine or imprisonment or other penalty, unless that right has been unquestionably conferred by the legislature, for this is inflicting a punishment for the commission or omission of an act declared an offense, a prerogative which, as a rule, pertains to the sovereign only. *Anderson* v. *City of Wellington,* 40 Kan. 173, 19 Pac. 719.

INTOXICATING LIQUORS—UNLAWFUL SALES—"LIQUOR."—Defendant was charged with unlawfully selling intoxicating liquors in less quantities than five gallons outside of any town or city. Cases of 26 bottles measured only 4½ gallons, and witnesses testified that they consumed considerable time so as to allow foam that arose on the beer when poured into the measure to settle so that the measure was full of liquid. Defendant claimed this measurement was unreliable. *Held,* that the gas or foam arising when the liquor is released cannot be considered in determining the quantity of the liquor. *People* v. *Nylin* (1908), — Ill. —, 86 N. E. 156.

It is defendant's contention that the beer was charged with gas, which is a component part of the beer, and that when released it disappeared so that a part of the contents of the bottle was not and could not be measured by the method the witnesses adopted. The court, however, dismissed this contention, holding that the measurement intended by the statute is a measurement of the quiet liquor after it has been released from confinement. In the language of the lower court, "Gas is an aeriform fluid but it is not a liquor" within the meaning of the statute concerning intoxicating liquor. In giving this decision the judge recognized the principle of physics that gas is a fluid, but in the interests of the law he decided for the first time directly that the gas or foam, whether caused by fermentation or by the method of bottling, is no part of the liquor. While perhaps the gas formed by fermentation could, with more reason, be held a component part of the liquor, still even this might open the door to fraud. Under Webster's definition of liquor as a liquid or fluid substance, gas might be included as part of the beer. The court cites no cases upon the point involved and none have been found.

Would the same rule be laid down if this were a case of the measurement of milk? That, too, foams when poured out in any quantity. At least we may say that the decision in the principal case upheld the liquor law, and so should meet with approval.

MASTER AND SERVANT—AUTOMOBILE ACCIDENT—RELATION OF PARTIES.—Plaintiff was negligently injured upon the highway by an automobile which a father kept upon his premises, and which at the time of the accident was driven by his daughter for her own pleasure. In an action for damages against the father, *held*, that the defendant was not liable. *Doran* v. *Thomsen* (1908), — N. J. L. —, 71 Atl. 296.

The decision in the principal case reverses that of the supreme court (*Doran* v. *Thomsen*, 74 N. J. L. 445, 66 Atl. 897) and is in harmony with a recent New York case, *Cunningham* v. *Castle* (1908), 127 App. Div. 580, 111 N. Y. Supp. 1057, reviewed in 7 MICH. L. REV., p. 180. The decision of the supreme court was based upon the theory that the relation of master and servant existed between the father and daughter. The mere relationship of parent and child imposes upon the parent no liability for the torts of the child committed without his knowledge or consent express or implied. The well-known maxim of the law, "Qui facit per alium facit per se," applies only where the trespass of the servant has been commanded or authorized. 29 CYC. 1665; WOOD, MASTER AND SERVANT, p. 10, § 7; *McCalla* v. *Wood*, 2 N. J. L. 81. The father might be liable if the machine were in itself inherently dangerous and were entrusted to an inexperienced and incompetent person, upon the ground of negligence in the father. *Van Winkle* v. *Am. Steam Boiler Co.*, 52 N. J. L. 240, 19 Atl. 472. The decisions in the principal case and in *Cunningham* v. *Castle* (supra) are logical administrations of the law of master and servant under common law principles, and as suggested in the latter case the use of automobiles is undoubtedly in need of subjection to regulation by statutes and ordinances. For a full discussion of the foregoing principles among the recent cases with special reference to automobiles see, *Stewart* v. *Baruch*, 103 App. Div. 577, 93 N. Y. Supp. 161; *Clark* v. *Buckmobile Co.*, 107 App. Div. 120, 94 N. Y. Supp. 771; *Evans* v. *Dyke Auto. Supply Co.*, 121 Mo. App. 266, 101 S. W. 1132; *Lotz* v. *Hanlon*, 217 Pa. 339, 66 Atl. 525, 10 L. R. A. (N. S.) 202, 118 Am. St. Rep. 922; *Lewis* v. *Amorous*, 3 Ga. App. 50, 59 S. E. 338; *Jones* v. *Hoge*, 47 Wash. 663, 92 Pac. 433, especially 14 L. R. A. (N. S.) 216, where the decision of the supreme court in the principal case is reviewed; *Reynolds* v. *Buck*, 127 Iowa 601, 103 N. W. 946; *Patterson* v. *Kates* (C. C.), 152 Fed. 481; *Slater* v. *Advance Thresher Co.*, 97 Minn. 305, 107 N. W. 133, 5 L. R. A. (N. S.) 598; *Christy* v. *Elliott*, 216 Ill. 31, 1 L. R. A. (N. S.) 215.

MUNICIPAL CORPORATIONS—DEFECTIVE STREETS—NOTICE TO CITY—LEGISLATIVE REGULATION.—A charter provision of a municipality required a ten days' written notice to the city of the existence of the defect in the street or sidewalk, prior to the accident, as a condition precedent to any liability on its part for damages. Plaintiff in an action for damages did not allege perfor-